



# Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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June 24, 2011

Sent via email to [deltaplancomment@deltacouncil.ca.gov](mailto:deltaplancomment@deltacouncil.ca.gov)

Chairman Isenberg  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

**Re: Central Valley Clean Water Association's Comments Regarding Fourth Staff Draft Delta Plan**

Dear Chairman Isenberg and Council Members:

On behalf of the Central Valley Clean Water Association (CVCWA), we appreciate the opportunity to provide comments to the Fourth Staff Draft Delta Plan (Fourth Draft Plan). CVCWA is a nonprofit association of Publicly Owned Treatment Works (POTWs) throughout the Central Valley whose primary mission is to represent wastewater agencies in regulatory matters while balancing environmental and economic interests. Many of CVCWA's members will be directly impacted by the Delta Plan and have a significant interest in its development and implementation.

As noted in our previous CVCWA comment letter to this Council, we have a number of concerns regarding the financing mechanism for funding both the short-term and long-term actions under the Delta Plan as articulated in Chapter 9, particularly the concept and implementation of the "stressors pay" approach. Our primary concern is that the proposed "stressor fee" is not an appropriate revenue mechanism as applied to National Pollutant Discharge Elimination System (NPDES) permit holders and would be calculated and assessed based on a particular discharger's volume of discharge. The Fourth Draft Plan proposes to assess this fee on all discharges of contaminants, regardless of whether the discharger is operating in compliance with its NPDES Permit and without an analysis of whether the discharge is actually impacting beneficial uses. Moreover, the Fourth Draft Plan specifically states that credit should not be given to discharges for waste treatment costs, despite the fact that such credit would encourage early actions by allowing entities to offset some costs associated with proactively addressing issues in the Delta.

Although CVCWA appreciates that the funding strategy section has been modified as compared to the Third Staff Draft Delta Plan, we nonetheless have a number of concerns with the language as currently proposed. Specifically, various provisions relating to the user and stressor fees still pose a number of concerns for CVCWA and its members. We have attempted to provide comments on specific provisions and ways in which the Council could address CVCWA's concerns in the next draft of the Delta Plan.

We also have specific concerns regarding several of the conclusions and references in Chapter 6 regarding ammonium and nutrient concentrations, salinity standards, and other water quality related conclusions contained in the Fourth Draft Plan. These too are described below.

### **Chapter 9 – Finance Plan Framework**

#### **1. *The Fourth Draft Plan Grants Too Much Discretionary Authority to the Council in Setting a Fee Structure***

Under the provisions of the Fourth Draft Plan, the Council would have far too much discretion in establishing the fee structure to be authorized by the Legislature. Specifically, the Fourth Draft Plan states that “[t]he Legislature should grant the Council the authority to develop reasonable fees for beneficial uses, and reasonable fees for those who stress the Delta ecosystem . . .” (Fourth Draft Plan, p. 173, FP R6.) There is no mention of a particular fee structure, nor is there any designation within the Fourth Draft Plan of specific terms under which the Council could and should develop such a framework. CVCWA is concerned that without providing at least some guidance in the Delta Plan on how the fees are to be assessed, the Council will be unconstrained in its ability to impose fees on local governments and other entities. Thus, we recommend that the Delta Plan include a more detailed outline of the fee authorization to be granted to the Council as part of this recommendation.

#### **2. *The Fourth Draft Plan Fee Proposal Is Not Inclusive of All “Stressors”***

As we have noted in comments on previous drafts, the Delta Plan does not take a sufficiently broad perspective on the importance of including all those who benefit from and utilize the Delta, as well as all of those sources of “stressors” that contribute to the decline of the Delta ecosystem. In previous versions of the Delta Plan, the Council had listed other types of stressor fees, including land use charges, retail sales fees, habitat alteration fees, special diversion fees, recreation use fees, and hatchery fees, but too easily dismissed them as infeasible. Now, the Fourth Draft Plan proposes recovering the \$50 million combined annual expenditures of the Council, the Delta Conservancy (Conservancy), and the Delta Protection Commission (DPC) through stressor fees and beneficiary fees, yet no contributions are being recommended from beneficiaries of flood control, ecosystem restoration, and a long list of other beneficiaries and stressors. This seems highly selective and does not take into account all of the beneficiaries and stressors on the Delta. We recommend that the Council include a broader base of fee payers that more accurately reflects those that benefit from and contribute to stresses upon the Delta. Should the Delta Plan ultimately include “stressor” fees as a revenue raising mechanism, it must include all stressors to ensure that appropriate entities are paying their fair share.

3. *The State Should Incur Start-Up Costs Associated With the Delta Plan, and the State Should Not Be Reimbursed Using Later-Assessed Fee Contributions*

As currently proposed, the Council, Conservancy, and DPC would be funded initially through state monies that would ultimately be repaid from user and stressor fees. Specifically, the Fourth Draft Plan contemplates that “[t]he costs of operations of the Council, Delta Conservancy, and Delta Protection Commission should be advanced for a period of 10 years . . . Repayment of these costs, with interest, would be made in annual amounts commencing in 2022 from the fees imposed as recommended above . . .” (Fourth Draft Plan, p. 173, FP R6.) Repayment to the state for providing funds for the early years of the Delta Plan is not appropriate, and will inevitably place an additional burden on fee payers. The state should be responsible for covering the startup costs of the Delta Plan processes without expecting reimbursement until a more permanent financing plan is established. In passing the authorizing legislation governing development of the Delta Plan, the Legislature was aware that the state would incur some of the up-front costs of getting the Delta Plan established and did not explicitly provide for a retroactive fee mechanism such that no general fund monies would pay for the Delta Plan. Although fee revenue may ultimately be the mechanism for funding the ongoing efforts of the Council going forward, the Conservancy and the DPC, it should not be the mechanism for retroactively funding activities that were necessary for the initial stages of establishing a framework for the Delta.

4. *Ten Years of Up-Front Funding for the Council, Conservancy Is Unnecessary and Unrealistic*

While we appreciate the need for the Council, Delta Conservancy, and DPC to have a stable source of funding going forward, the expectation that the state would provide ten (10) years of funding up front, to be reimbursed by fee payers over time, is inappropriate. Specifically, the Fourth Draft Plan states that “[t]he costs of operations of the Council, Delta Conservancy, and Delta Protection Commission should be advanced for a period of 10 years . . . Repayment of these costs, with interest, would be made in annual amounts commencing in 2022 from the fees imposed as recommended above . . .” (Fourth Draft Plan, p. 173, FP R6.) Few if any agencies or local government entities have a ten (10) year reserve of funds to cover the cost of operations for such an extended period time, and we can see no reason why the Council, Conservancy, and DPC should be treated any differently. Moreover, this proposal is unsupportable given that fee payers would ultimately be paying the interest along with the principal repayments to the state over time. This essentially means the Council will be charging fee payers more than their true share of the costs of implementing the Delta Plan for the sole purpose of providing an extended cushion of funding security for the Council, Conservancy, and DPC. It is not reasonable to allow the Council to collect fees to fund its operations a full ten (10) years in advance at a cost of approximately \$500 million to the fee payers.

5. *The “Stressor” Fee Concept Is Flawed and Fails to Account for the Numerous Fees Already Paid by Permitted Dischargers*

The Fourth Draft Plan does not recognize or account for the existence of numerous other fees already assessed on purported “stressors” throughout the Delta. In many cases, the beneficiaries and stressors are already paying large sums of money correlated to their particular benefit from and burden on the Delta. There needs to be an evaluation of existing fees currently paid by the various Delta users (i.e., exporters, dischargers, agricultural users, recreational users, fisherman, etc.) in order to determine if any restructuring needs to take place and any duplicative fees currently exist.

As CVCWA has noted in previous comments, the proposed “stressors pay” approach represents an attempt to assess fees on entities that are operating in compliance with existing law, working to protect beneficial uses, and are already paying significant sums in both permit fees and costs to comply with permitting requirements and meet applicable water quality standards. Particularly, entities identified as “stressors” in the Fourth Draft Plan, including dischargers, are already paying a myriad of fees to other entities to address the issues noted by the Council, including permit fees, monitoring fees for the Surface Water Ambient Monitoring Program (SWAMP), and water quality monitoring costs required pursuant to existing permits. These heavily regulated and fee-burdened entities should not be assessed another “stressor fee” based purely on the volume of contaminants discharged. Discharges from those operating under NPDES permits must be in compliance with state law and federal Clean Water Act provisions, and are required to be protective of beneficial uses. NPDES dischargers are required to meet adopted numeric and narrative water quality standards that are protective of human health and the environment. Compliance with such limitations can require billions of dollars of capital costs and very significant annual operation and maintenance costs.

Therefore, if such stressor fees are to be included as part of the Delta Plan, such fees must take into account the degree to which the pollutant loading affects beneficial uses of the Delta. This would more closely correlate an entity's impact on the Delta with amount of fees charged to a stressor.

6. *No Credit Is Given to “Stressors” Who Spend Funds to Reduce Impacts on the Delta*

The Fourth Draft Plan fails to credit entities that reduce impacts on the Delta by spending funds on improvements or structural changes for that purpose. Specifically, the Guiding Principles within the Finance Plan state that “[e]xisting contributions for closely related activities should be considered for crediting. Site-specific contributions by agencies should not be credited (for example, the installation of fish screens and waste treatment costs).” (Draft Plan, p. 168. Guiding Principles.) Numerous entities will be spending potentially billions of dollars on efforts to reduce impacts on the Delta through improvements in treatment capability and fish protection, yet these entities will continue to pay the Council stressor fees similar to those who have taken no actions whatsoever to improve the Delta. The absence of any credit or offset for actions undertaken to reduce a stressors impact on the Delta ecosystem creates a disincentive to undertake such actions, and at a minimum treats those entities that are not taking proactive steps towards improvement on the same footing as those “stressors” who take no actions whatsoever. The Council should remove the latter part of this provision from the Fourth Draft Plan and create a framework for crediting those entities that are making progress towards improving the Delta.

**Chapter 6 – Improve Water Quality**

1. *The Fourth Draft Plan's Discussion of “Emerging Pollutants” Is Premature, Inappropriate, and Unnecessary Given the Current State of Scientific Knowledge*

Chapter 6 of the Fourth Draft Plan contains a number of inaccurate references that improperly characterize the threat from certain pollutants and chemicals. Specifically, the definition of “emerging pollutants” found on page 118 suggests the existence of adverse effects from “emerging pollutants” in the Delta and indicates that pollutants in this class should be treated in a different way than other

pollutants from a regulatory and management perspective. "Emerging pollutants" are, by definition, currently not regulated through the use of numeric water quality criteria or objectives, in large part due to the scarcity of scientific information that would indicate the levels at which adverse effects are known to occur. The Fourth Draft Plan contains an improper assumption that all of the pollutants in the "emerging pollutant" category are persistent and toxic, a determination highly dependent on a number of factors. Moreover, many of the pollutants specifically identified as "emerging pollutants" do not demonstrate persistent toxicity. The characterization of these pollutants as toxic is misleading and conveys a level of concern that is unwarranted based on the best available information.

Thus, the Delta Plan's call to action recommending "effective management" of these pollutants and requiring agencies to "demonstrate linkages" and "implement control measures" is entirely premature for a class of pollutants for which we lack knowledge regarding environmental effects, and for which neither water quality criteria nor water quality objectives exist. The Fourth Draft Plan's recommendation that the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCBs) "conduct or require special studies of pollutants including emerging contaminants and causes of toxicity in Delta waters and sediments" (Fourth Draft Plan, p. 119, WG R8.) in the near future are premature based on available information. This determination should only be made after completion of a process to evaluate the specific pollutants to be monitored, the reason for the monitoring, and the effects thresholds to be used in evaluation of collected data, at a minimum. While the Fourth Draft Plan may appropriately acknowledge the existence of this large class of constituents, it is inappropriate for the Plan to suggest management interventions before more is known about them. These provisions discussing "emerging pollutants" and suggesting certain related actions need to be modified to reflect this reality.

2. *The Fourth Draft Plan Exaggerates and Misstates the Association Between Taste-And-Odor Events and Nutrient Control*

The Fourth Draft Delta Plan improperly associates nutrients and taste-and-odor (T&O) events by exaggerating the evidence for an association between T&O-causing organisms and the nutrient status of drinking water sources. (Fourth Draft Plan, p. 111, lines 24-28.) Nutrient control measures have proven to be ineffective as management tools to control T&O events or the distribution and abundance of T&O-causing microbes. Generally, it not possible to predict how reducing the nutrient loads to the Delta and from in-Delta sources or otherwise reducing ambient nutrient concentrations will impact the location, magnitude, or frequency of taste and odors problems. Therefore, the push to control nutrient levels in the Delta should not be based on an attempt to control algae-caused taste and odors in water supplies. Moreover there are other more effective management tools available for the control of T&O causing organisms than nutrient control in source waters. Thus, we recommend eliminating the reference to "excessive levels of nutrients" as it pertains to taste and odor episodes (Fourth Draft Plan, p. 111, line 24.) as a cause of concern in the Delta and suggest the Delta Plan should recognize the absence of the ability to predict taste and odor events on the basis of nutrient loads from in-Delta sources or in-channel nutrient concentrations.

3. *The Performance Measures Specifying an Ammonium Concentration Lack a Sound Scientific Basis*

The Delta Plan overstates the strength of the evidence in various studies (i.e. Dugdale et al. (2007); Wilkerson et al. (2006).) indicating that ammonium-induced inhibition of nitrate uptake prevents spring algal blooms from developing in Suisun Bay when conditions are otherwise favorable. (Fourth Draft Plan, p. 113.) There are several notable issues in these studies, including the fact that the time series of field data presented shows that the ammonium inhibition threshold proposed by these investigators is not a good predictor of phytoplankton blooms. In addition, no time series data were presented in these studies regarding other environmental parameters, despite data suggesting that several other parameters are known to be critically important to the determination of whether or not conditions are "favorable" for blooms and whether variations in these other parameters are triggering blooms. Moreover, these studies cannot rule out the possibility that low ammonium concentrations are the *result* of a bloom triggered by non-nutrient factors, rather than the *cause*. The Fourth Draft Plan lacks reference to field data that supports consistent correspondence between ammonium concentrations and bloom occurrence. Thus, we recommend that the Fourth Draft Plan include an acknowledgement that factors other than the presence of higher ammonium concentrations frequently prevent algal blooms, and discuss the limited application of the above referenced studies.

Moreover, while the Fourth Draft Plan appropriately reserves authority for determining water quality objectives for the SWRCB and RWQCBs, the Plan makes no mention of the approach that the SWRCB and the USEPA Region 9 adopted in 1999 to develop nutrient objectives for lakes, streams, and estuaries in California - the Nutrient Numeric Endpoint (NNE) Framework. This Framework is currently being applied to California estuaries through the activities of the Coastal Estuarine NNE and the San Francisco Estuary (SFE) NNE workgroups. This NNE Framework rejects the approach of defining nutrient impairment on the basis of nutrient concentrations, and instead begins with identification of scientifically defensible biological response variables of nutrient over-enrichment, or "indicators" (such as phytoplankton biomass/composition or dissolved oxygen) and the assignment of numeric thresholds to those indicators for use in determining when and where nutrient over-enrichment causes impairment. The NNE Framework requires the development of site-specific, quantitative models to translate "indicator" thresholds into nutrient concentrations or loads for nutrient management applications. The process is only considered valid when *co-determinants* of algal biomass (or other indicator variables) such as temperature, stratification, flows, light, grazing, are included as parameters in the models.

In the recently released SFE-NNE proposal for candidate *Primary Indicators* of nutrient over-enrichment in the SFE (McKee et al. (2011).), ammonium was rejected as a primary indicator because it was concluded that the ecological significance of ammonium inhibition of nitrate uptake is unknown in the San Francisco Estuary (including Suisun Bay and Suisun Marsh) and that, based on current science, ammonium concentrations per se are not an appropriate indicator of nutrient impairment. The Fourth Draft Plan properly acknowledges that "[i]t is not known, however, how much this [ammonium] inhibition extends to freshwater algae in the Delta. Current research in the Delta is addressing this question." (Delta Plan, p. 113, lines 6-7.) However, given the lack of consensus regarding the ecological importance of ammonium inhibition in the Bay and Delta, the Council's elevation of the "Dugdale" threshold (4  $\mu\text{M}$   $\text{NH}_4$ ) to a *de facto* numeric nutrient criterion, through its explicit use as a performance measure in the Delta Plan is scientifically unwarranted, an inappropriate regulatory action, and imbalanced in comparison to other recommendations in the Delta Plan. Thus, the language on page 120, line 36 should

be eliminated in favor of simply referencing progress toward meeting water quality objectives for nutrients and other constituents, as established by the SWRCB.

4. *Studies Cited in the Delta Plan Indicating Ammonium and/or Nutrient Ratios Are Responsible Impact Fish Through A Cascade in the Food Web Are Flawed*

The Fourth Draft Plan mischaracterizes Glibert's (2010) portfolio of CUSUM correlations as a demonstration of a complete "community cascade through the food web, ultimately affecting the fish community of the Delta caused by ammonium or nutrient ratios." (Delta Plan at p. 113, line 12-15.) In addition to recent studies disputing such conclusions (see Cloern et al. 2011), there are several notable issues with Glibert's conclusions. For example, Glibert failed to relate trends in nutrient ratios to those of phytoplankton or copepods in her article, and several obvious pairings of environmental variables were omitted from Glibert's portfolio of CUSUM correlations. Also, CUSUM trends in nutrient ratios were not directly compared to those for copepod abundance. Thus, rather than indicating that Glibert demonstrated that ammonium or nutrient ratios created a "cascade" through the food web as the current draft does, the language within the Fourth Draft Plan should be revised to indicate that Glibert only hypothesized that ammonium concentrations and nutrient ratios might be related to changes at higher trophic levels.

5. *Statements to the Effect That Municipal and Industrial Discharges Increase Salinity Are Misleading and Inappropriate*

The indication in the Fourth Draft Plan that "[m]unicipal and industrial discharges can also increase salinity" (Fourth Draft Plan, Page 109, line 18.), and the associated discussion of salinity on pages 108 through 110, are misleading and create a false impression of the factors that are the important drivers of salinity in the Delta. It has been well established and thoroughly documented that operations of the State Water Project (SWP) and Central Valley Project (CVP) have a major influence on salinity conditions in the Delta, and by comparison, municipal discharges have a de minimis effect.<sup>1</sup> The Fourth Draft Plan should accurately portray this knowledge by modifying the language to reflect that impacts of municipal discharges on overall Delta salinity are not typically significant. The plan should also include information regarding the Cease and Desist Order that has been adopted by the SWRCB that requires DWR and the Bureau of Reclamation to meet salinity objectives in the Delta by 2017. Finally, the Delta Plan should also include a discussion of the SWRCB's ongoing effort to re-examine salinity objectives in the South Delta as part of its Bay-Delta Planning effort.

6. *The Fourth Draft Plan Makes Internally Inconsistent Statements Regarding the Drinking Water Quality in the Delta*

There are several statements relating to water quality in the Delta in the Fourth Draft Plan that are both inaccurate and misleading. Specifically, the Fourth Draft Plan states that "...contamination of municipal water supplies makes water unpalatable, contributes to the formation of harmful disinfection byproducts, and increases corrosion of pipes and equipment." (Fourth Draft Plan, p. 110, lines 8-10.) Yet

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<sup>1</sup> For example, SWRCB data show that municipal wastewater sources contribute one percent of the total annual average salt loadings at Vernalis. *San Joaquin River Annual Salt Loading WY 1985-1995*, included in Materials for April 15, 2009 Special Meeting of the State Water Board regarding Salinity Issues, at p. 0009

on the very same page, the Plan states that “[w]ater quality at the State Water Project (SWP) and Central Valley Project (CVP) export pumps in the south Delta, while usually *meeting all applicable standards for municipal and agricultural use...*” (Fourth Draft Plan, p. 110, lines 3-5, emphasis added.) This statement accurately characterizes water quality conditions at the export pumps based on available data and contradicts the notion that waters in the Delta are “unpalatable.” It also contradicts the notion that Delta waters are excessively corrosive, since they typically meet applicable standards for EC. Moreover, water suppliers that use Delta water must meet (and do meet) Safe Drinking Water Act water treatment rules and regulations which are intended to prevent the formation of harmful levels of disinfection by-products in tap water. Thus, the language on Page 110, lines 8-10 is inaccurate and should be eliminated.

7. *The Fourth Draft Plan Should Acknowledge the Progress and Current Status of the Drinking Water Policy Work Group*

The Fourth Draft Plan states that “[a] major concern for municipalities using Delta water is what the future holds for water quality...population growth in the watershed pose[s] a threat to drinking water quality. The Central Valley RWQCB is developing a drinking water policy that is, in part, intended to prevent degradation of high quality drinking water sources...” (Fourth Draft Plan, p. 111, lines 37-40.) The Drinking Water Policy Work Group (“Work Group”) that is working with the Central Valley RWQCB to develop a drinking water policy has completed significant elements of its technical work plan over the past several years. The constituents of concern that the work group has addressed are organic carbon, nutrients, pathogens and salinity. The technical elements that have been completed have included detailed source investigations, water quality data compilation and analysis, source control studies, mathematical modeling of future population growth and source control scenarios, and associated drinking water treatment studies. One significant finding is that future population growth in the Central Valley at planned levels of source control is not anticipated to cause a deterioration of water quality in the Delta. Another significant finding is that future water treatment costs will not be affected by organic carbon source control efforts aimed at municipal and agricultural sources. This finding helps resolve the historic concern by water agencies that Delta water quality is getting worse for parameters that drive water treatment costs such as organic carbon, and contradicts statements in the Fourth Draft Plan to the effect that Delta water quality “can significantly increase the cost of drinking water treatment.” (Fourth Draft Plan, pp. 110-111, lines 44-45, 1-2.) The drinking water policy development effort has been outcome-based since its inception and is in the process of assessing the need for possible Basin Plan amendments, yet many of its findings contradict statements within the Fourth Draft Plan. The Delta Plan needs to include an acknowledgement of the efforts and outcomes of the work group thus far.

8. *The Draft Plan Should Acknowledge the complexity and timing of Ongoing Efforts to Develop Nutrient Objectives and Not Seek to Duplicate or Override Those Programs.*

The Delta Plan states that the SWRCB and RWQCBs should “adopt objectives for nutrients in the Delta by January 1, 2014” (Fourth Draft Plan, p. 120, line 25) and that the boards should make “[p]rogress toward reducing concentrations of inorganic nutrients (ammonium, nitrate, and phosphate) in Delta waters over the next decade.” (Fourth Draft Plan, p. 121, lines 3 and 4.) While CVCWA supports efforts to evaluate the need for nutrient objectives in the Delta, CVCWA does not agree with the assertion that objectives are needed immediately, that ambient nutrient should be reduced immediately, or that the short time frame for completion of this highly complicated task to assess the need for or magnitude of objectives is appropriate or realistic. The SWRCB process for consideration of NNE’s in San Francisco Bay



is in its initial stages and will necessarily be connected to any similar effort in the Delta. The development and use of mathematical models is an essential aspect of the SWRCB's NNE effort, and the time frame for consideration of nutrient objectives in the Delta must be aligned with the San Francisco Bay NNE effort. Moreover, the presumption that reduced concentrations of all inorganic nutrients should occur immediately inappropriately prejudices the outcomes of the process to evaluate the need for nutrient objectives. Given the significant controversy and lack of consensus regarding the need for, or benefit of, nutrient reductions in the Delta, the notion that progress must be shown toward ambient nutrient level reductions is clearly premature. Thus, we suggest that the Council eliminate the timeline of January 1, 2014 for adoption of nutrient objectives from these provisions and insert a caveat noting that reducing concentrations of inorganic nutrients should be a goal if deemed necessary as a result of the combined San Francisco Bay and Delta NNE effort.

9. *The Fourth Draft Plan Should Acknowledge the Need to Mitigate Methylmercury Increases Associated with Restoration of Wetland and Floodplain Habitats in the Delta*

The Fourth Draft Plan states on page 116, lines 27-35 that: "There is general concern that increased concentrations of methylmercury in water, sediment and biota might result from the restoration of wetland and floodplain habitats in the Bay-Delta and from changes in the conveyance of freshwater across the Delta." These changes are directly associated with the BDCP, which is advocating new conveyance facilities and major habitat enhancement projects to offset its ongoing impacts on Delta fish and the Delta ecosystem. The Delta Plan should clearly state that increases in methylmercury in fish and wildlife in the Delta associated with the BDCP are the responsibility of the BDCP project proponents. Other parties in the Central Valley are already obligated under the Delta Mercury TMDL to take actions seeking to reduce levels of methylmercury in fish. BDCP-associated increases in methylmercury could overwhelm such actions.

10. *The Fourth Draft Plan Should be Modified to Clarify the Description of Pollutants of Concern*

The Fourth Draft Plan states on page 105, lines 21-29 that: "The SWRCB has listed Delta waterways...the Carquinez Strait, and San Francisco Bay as having impaired water quality pursuant to the federal Clean Water Act section 303(d) list (SWRCB, 2010)." The Draft Plan then goes on to list a number of water quality constituents that are not on the 303(d) list and have not otherwise been formally established as significant or widespread problems. Those include nutrients, temperature, turbidity, bromide, dissolved organic carbon, pathogens and harmful algae blooms. These constituents may have been raised as concerns or as candidates for further investigation, but should not be confused with 303(d) listed pollutants for which an official determination of impairment has been made.

CVCWA appreciates the opportunity to comment on the Fourth Draft Plan, and look forward to reviewing future drafts as the work of the Delta Stewardship Council progresses. If the Council or staff has any questions or concerns, please do not hesitate to contact me at (530) 268-1338.

Very truly yours,

A handwritten signature in cursive script that reads "Debbie Webster".

Debbie Webster  
Executive Officer